

EXHIBIT 149

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

Donna Curling, et al.,

Plaintiffs,

CIVIL ACTION FILE

vs.

NO. 1:17-cv-02989-AT

Brad Raffensberger, et
al.,

Defendants.

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VIDEO 30(b)(6) DEPOSITION OF  
SECRETARY OF STATE  
THROUGH  
ROBERT GABRIEL STERLING

October 12, 2022  
9:26 a.m.

Suite 3250, One Atlantic Center  
1201 W. Peachtree Street  
Atlanta, Georgia

S. Julie Friedman, CCR-B-1476

1 Will the court reporter please swear in  
2 the witness.

3 ROBERT GABRIEL STERLING, having been first  
4 duly sworn, was examined and testified as  
5 follows:

6 THE VIDEOGRAPHER: Counsel, you may  
7 proceed.

8 CROSS-EXAMINATION

9 BY MR. CROSS:

10 Q. Good morning, Mr. Sterling.

11 A. Good morning, Mr. Cross.

12 Q. So do you understand your testimony today  
13 as a representative of the Office of the Secretary of  
14 State for Georgia.

15 A. That's my understanding. Yes.

16 Q. And you understand that means that you're  
17 testifying to the knowledge the Secretary's Office  
18 has on a particular topic?

19 A. Yes.

20 Q. Okay. Let me go ahead and hand you the  
21 first exhibit, which is Tab 2, the notice.

22 If you could, share that with everybody  
23 else.

24 A. Is it the same thing here?

25 Q. Yeah.

1           A.       Okay.

2           Q.       No problem.

3                   (Exhibit 1 was marked for identification.)

4           MR. TYSON:   Thank you.

5           THE VIDEOGRAPHER:   Exhibit 1?

6           MR. CROSS:   Exhibit 1.

7           THE COURT REPORTER:   Oh, no.

8           MR. CROSS:   And --

9           THE COURT REPORTER:   Give me a second,  
10       please.

11          MR. CROSS:   Sure.

12          THE COURT REPORTER:   The late attendees.

13          MR. CROSS:   Do we need to go off the  
14       record?

15          THE COURT REPORTER:   Yeah.   We can for a  
16       second.   I'm so sorry.

17          MR. CROSS:   That's okay.

18          THE VIDEOGRAPHER:   We're going off the  
19       record at 9:30.

20                (Recess from 9:30 to 9:31 a.m.)

21          THE VIDEOGRAPHER:   We're on the record at  
22       9:31.

23          Q.       (By Mr. Cross)   Mr. Sterling, before we  
24       look at Exhibit 1, just you understand you're under  
25       oath?

1 A. Yes. I just took it.

2 Q. Yeah. And is there any reason you cannot  
3 give full and complete testimony today?

4 A. Not that I'm aware of.

5 Q. Okay. And have you ever been convicted of  
6 or charged with any crime?

7 A. No.

8 Q. Okay. All right. Take a look --

9 A. Wait. Do speeding tickets count?

10 Q. No.

11 A. Okay.

12 Q. Those are not crimes.

13 Take a look at Exhibit 1, if you would,  
14 and turn to Page A-4 where it says, "AMENDED TOPICS."

15 A. Yes, sir.

16 Q. And you'll see that there's a topic there,  
17 No. 1; and it continues on to the top of the next  
18 page.

19 And are you prepared to testify to the  
20 knowledge of the Secretary's Office on that topic  
21 today?

22 A. Yes.

23 Q. Okay. Now what did you do to prepare for  
24 your testimony today?

25 A. Interviewed several individuals in the

1 (Exhibit 4 was marked for identification.)

2 THE WITNESS: Okay.

3 Oh, I'm sorry. Give him. Pass them down.

4 Q. (By Mr. Cross) This is Tab 1-B.

5 So this is -- Exhibit 4 is a Tweet that  
6 you sent on October 1st of this year.

7 Do you see that?

8 A. Yes.

9 Q. And in here you write thank you Ben Adida  
10 for being a rational expert in elections. And he's  
11 right. The fear mongers need to stop. The  
12 statements undermine Americans' faith in elections,  
13 the same outcome as Trump's stolen election claims.  
14 Often they say the same thing and reinforce each  
15 other.

16 Do you see that?

17 A. Yes, sir.

18 Q. So you tweeted out the thread that Mr.  
19 Adida had posted, right?

20 A. Yes, sir.

21 Q. Did you actually read that before you put  
22 it out before you re-tweeted it?

23 A. I read his -- most of them. I -- back and  
24 forth for what while, but I didn't -- I don't know  
25 the timing of when I tweeted versus when the replies

1 might have been put on there, so I couldn't say.

2 Q. Well, did you see that in his statement in  
3 the -- the tweet that you re-tweeted, he stated that  
4 the breach, the unauthorized access in Coffee County  
5 lasted only a few hours; and that's why there's not  
6 cause for concern?

7 A. No. I didn't see that part.

8 Q. But that's not an accurate statement.  
9 Right, sir?

10 A. That is correct.

11 Q. In fact, we know from the surveillance  
12 video is that the unauthorized access lasted over a  
13 period of -- of many days and many hours throughout  
14 the month involving a variety of different people?

15 A. Yes. He also said on that particular item  
16 that we have to operate as if they already have all  
17 the source code already. I believe it's the same  
18 thread, but could have been a different thread, so  
19 the length of it has less to do with, I think, from  
20 my point of view and from -- I'm not going to speak  
21 for Mr. Adida here.

22 But I don't believe that's misleading.  
23 No.

24 Q. To -- To tell the voters publicly that --  
25 that the unauthorized access in Coffee County lasted

1     only a few hours as opposed to -- five, six -- eight  
2     days?

3           A.     Again, I don't find it to be -- That's  
4     when Mr. Adida did, and I didn't necessarily see that  
5     particular thing so --

6                     But my point is the underlying part of  
7     that is that he also said we have to act as if they  
8     already have all this information already, so it  
9     doesn't matter if it's eight hours or eight days in  
10    terms of that situation.

11           Q.     But -- But even that is directly at odds  
12    with the position that the Secretary's Office has  
13    taken before this breach came to light, right?

14           A.     I'm not sure what you mean.

15           Q.     Do you recall -- if I can -- I can pull  
16    it up if we need to.

17                     Do you recall that Secretary Raffensperger  
18    did an interview where he said that Dr. Halderman's  
19    findings had no value in the real world, because he  
20    got access to the equipment and the software in a way  
21    that would never happen.

22                     But now you're saying Mr. Adida says we  
23    should just assume that.

24           A.     No. Two different things about this, Mr.  
25    Cross; and I don't want to verbally spar with you.



1           Q.     If you look down towards the bottom, do  
2 you see Mark Niesse with the AJC asked a question 39  
3 minutes into the interview?

4           A.     39 minutes, 43 seconds --

5           Q.     Right.

6           A.     -- yes.

7           Q.     And then Secretary Raffensperger responds  
8 by saying you're talking about the Halderman report.  
9 And Halderman was given actually the security code,  
10 so he had total access to the equipment; and he had  
11 it for 12 weeks. And he comes back with his points.  
12 He said, well, if you have that kind of access, that  
13 you can change things.

14                   And Secretary says, well, Doug, yeah.  
15 Just like the guy that's got to come in and work on  
16 your server, your security system for your house, he  
17 can have all the access codes. Yeah. I guess he can  
18 come back maybe at 2:00 a.m.

19                   The question I was asking you was --

20                   Well, let me ask you one more foundational  
21 question. Are you aware that the Secretary of  
22 State's Chief Information Officer, Merritt Beaver,  
23 testified in his deposition as a 30(b)(6) witness, as  
24 a corporate rep, that it's critically important to  
25 protect the Dominion software because releasing it

1 provides a roadmap -- that was his word --

2 A. Yeah.

3 Q. -- a roadmap for hacking the system?

4 A. Yes.

5 Q. Do you disagree with that?

6 A. No.

7 Q. Okay. So my question to you is:

8 You're -- You're citing that Adida is saying, well,  
9 we should just assume that bad actors have not just  
10 the software, but the source code, whereas Secretary  
11 Raffensperger is saying no, no. We don't even have  
12 to worry about Dr. Halderman's findings because he  
13 had access to the software. How do you reconcile  
14 those positions?

15 MR. TYSON: I'll object to form.

16 THE WITNESS: Two different ways. Our  
17 office has to run an entire election system, and  
18 that's what Secretary Raffensperger is referring  
19 to in terms of the overall system would still be  
20 safe given these -- this level of access he had.

21 Q. (By Mr. Cross) Uh-huh.

22 A. Coffee County itself had a breach. Part  
23 of the security of our system overall is there's 159  
24 different jurisdictions.

25 And, again, I'm not a technical expert;

1 out of the norm from what we see in most of our  
2 investigations, in most situations.

3 And no doubt having all the information we  
4 have now versus when we have it then, we would have  
5 acted differently probably; but that's the situation  
6 we had at the time.

7 So it looked, had every hallmark of  
8 misinformation, disinformation. Had every hallmark  
9 of every other claim.

10 So that was where -- That was the  
11 information at the time; and I should have said  
12 there's always a possibility, just like I normally  
13 caveat things; but I was -- In my brain at that time  
14 I was pretty sure this is another pile of garbage the  
15 same way most of these other claims were piles of  
16 garbage. Most of the Trump claims -- let's all be  
17 fair -- were piles of garage.

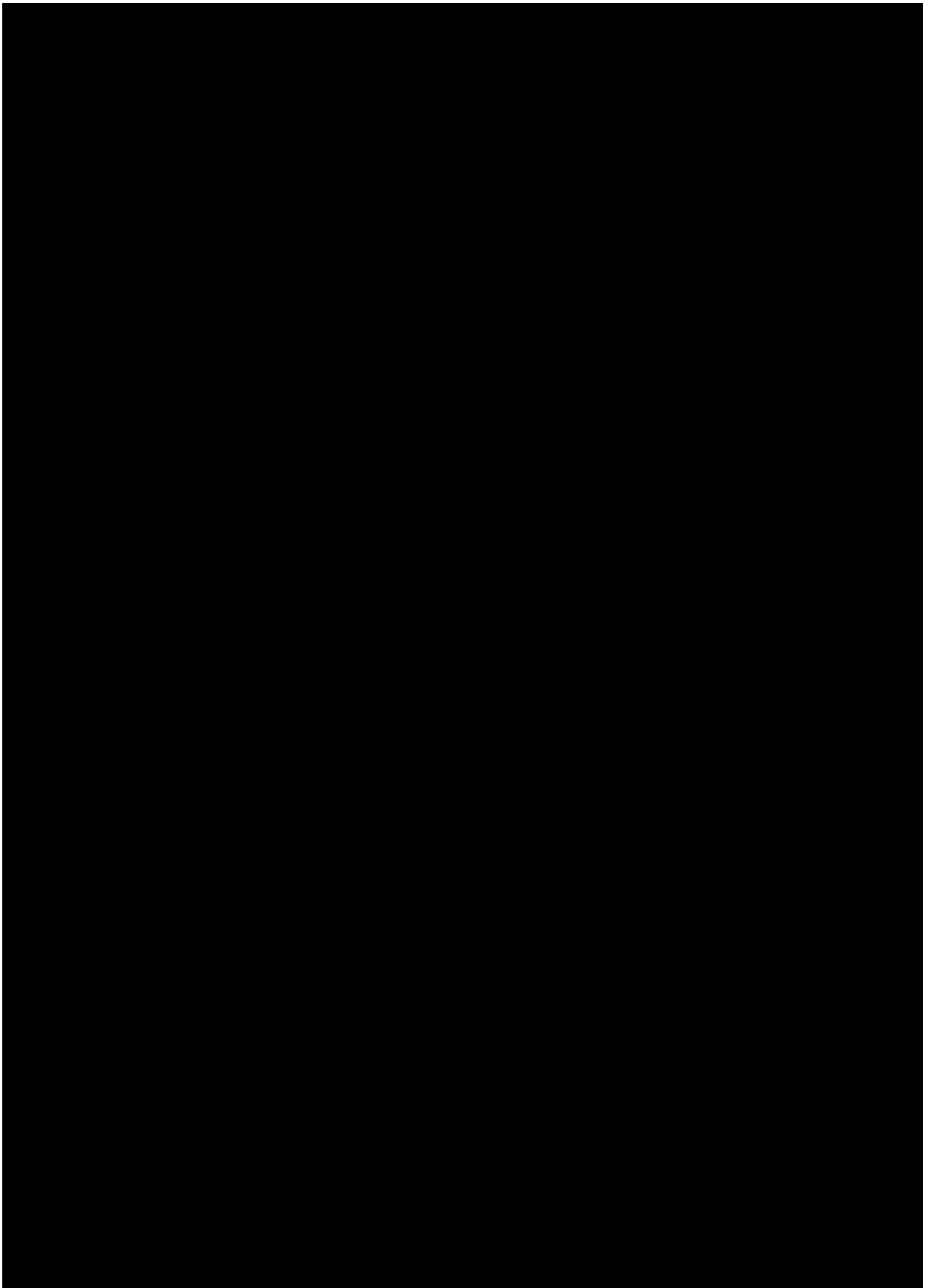
18 Q. All right. Let me hand you the next  
19 exhibit. It's Tab 58.

20 A. Thanks. I didn't hand it out. Sorry.

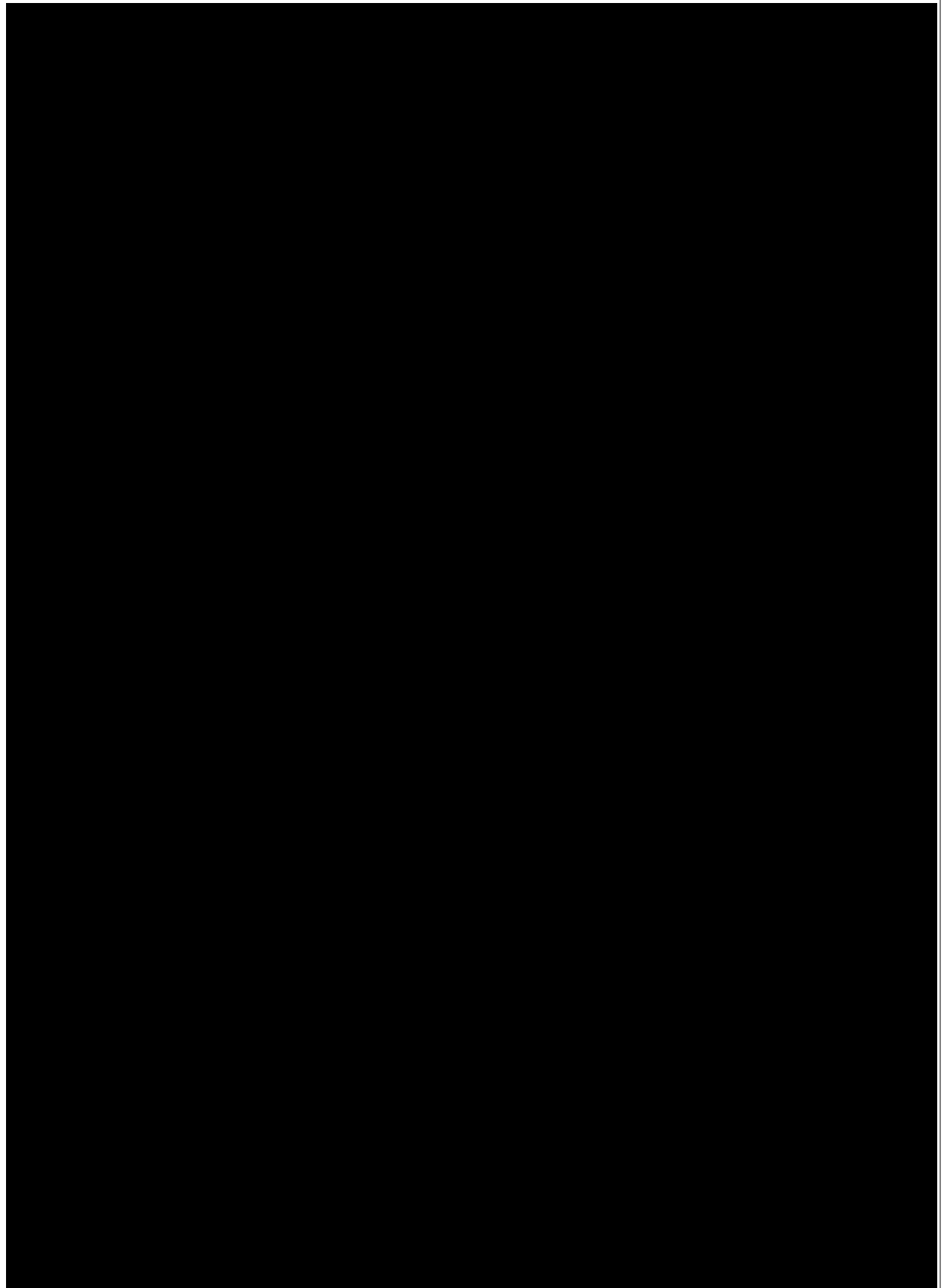
21 THE COURT REPORTER: Exhibit 7.

22 (Exhibit 7 was marked for identification.)  
23  
24  
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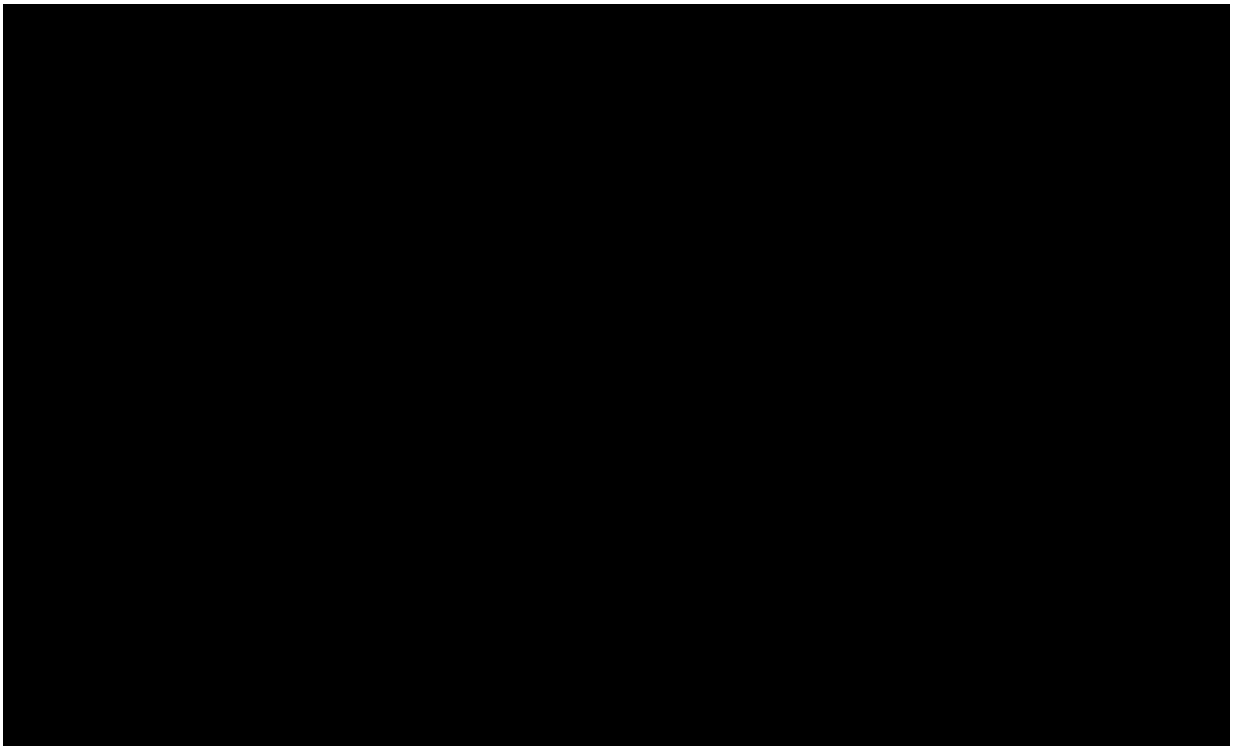
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Q. Okay. The Secretary's Office is aware that every county in this -- that every county election office in the state has video surveillance, right?

Let me -- Let me ask a better question. You were aware that this county elections office has video surveillance, right?

A. Yes.

Q. Okay. Why didn't you ask for that? Wouldn't that be step one?

A. I believe I just explained to you that James Barnes went to their -- As I understand it was explained to us -- And this is verbal. There's no unfortunate -- There's no e-mail about this.

1           He went to them and said, well, we did --  
2       That's all been deleted by now.

3           He was unaware that Misty Hampton had done  
4       an ORR. Because like I said, the left hand and right  
5       hand didn't know what they were doing.

6           So even if we had gone to ask them, we  
7       would have gone through James Barnes, who would have  
8       gone to the County and perhaps gone to the county  
9       attorney; but that's a hypothetical at this point,  
10      because he said it doesn't exist.

11          Q.     Wait. But you guys are the -- are --  
12      are --

13           You're the Secretary's Office. You have  
14      law enforcement authority to conduct an investigation  
15      into election security breaches, right?

16          A.     Potential ones, yes.

17          Q.     Okay. Why in the world would you rely on  
18      James Barnes, who was brand new to the office,  
19      instead of sending your investigator yourself to find  
20      out whether that surveillance video existed?

21           Wouldn't that be the normal course of a --  
22      of a -- of a sound investigation?

23          A.     If the person who --

24           MR. TYSON: Object to form.

25           THE WITNESS: If the person who reported

1 MR. KNAPP: Yes.

2 THE VIDEOGRAPHER: We're going off the  
3 record at 11:28.

4 (Recess from 11:28 a.m. to 11:43 a.m.)

5 THE VIDEOGRAPHER: We are on record at  
6 11:43.

7 Q. (By Mr. Cross) Mr. Sterling, are you  
8 aware of any changes made to the original EMS server  
9 after the Secretary's Office took possession from  
10 Coffee County?

11 A. The Coffee -- You mean the Coffee County  
12 EMS, not --

13 Q. Correct.

14 A. -- made by Coffee County.

15 I am not aware of any changes that would  
16 have been made to that. No.

17 Q. Okay. And what about the ICC?

18 A. Not that I'm aware of.

19 Q. Okay. The -- The Secretary's Office took  
20 the EMS server from Coffee County in June of 2021, as  
21 I understand it, because the password didn't work; is  
22 that right?

23 A. June 8th. Yes.

24 Q. Okay. Why did the -- And sorry. Just to  
25 take a step back, are you aware that James Barnes



1 understanding from a year out or something --

2 Q. Uh-huh.

3 A. -- like that.

4 Q. The -- Why did the Secretary's Office  
5 take the ICC when it took the EMS server?

6 A. I think they're connected. I don't know.

7 Q. But you're aware that the password, the  
8 ICC password still worked. It was fully operational?

9 A. Maybe it was. I don't know. I don't have  
10 an understanding as to why they took both of them.

11 Q. Okay.

12 A. I think I said that they're --

13 Q. Well, and I'm not asking you to  
14 speculate --

15 A. Okay.

16 Q. -- if you don't know.

17 A. I'm going to say one thing. As I  
18 understand it, their SOP is to just do that. Like I  
19 said -- Like I said, take it down there and replace  
20 it, so that's -- I didn't --

21 Once they said they did that, I just kind  
22 of left it at that.

23 MR. TYSON: David, do you want us to check  
24 with CES on a break on that point on what the --

25 MR. CROSS: Sure --

1     their modus operandi. Their modus operandi before  
2     the breach in Coffee County was to be very public, as  
3     you pointed out, right? To say, look, we're doing  
4     this. We're getting access, and we're going to show  
5     that the election was wrongly decided, right?

6           A.     Except in the other cases where they were  
7     public, they were granted access by some authority  
8     that seemed to be okay with it. In -- In Arizona,  
9     the State Senate, obviously. In Michigan, I believe  
10    there was, I believe, another group that did that.

11                So this goes back to looking back at what  
12    we know now. Misty and them all realized there were  
13    violating laws and rules here. Maybe we don't waive  
14    a flag at this until we know for certain we found  
15    something, so maybe they'd gotten more sophisticated,  
16    'cause they'd gone through the November time period  
17    and the December time period. I can't remember where  
18    the Arizona ridiculous thing was going on at that  
19    point.

20                So, again, I can't get into their  
21    mind-set, and you're right. This seems a little bit  
22    different; but the rationale behind it might have  
23    been, hey, I don't want to go to jail.

24           Q.     Well, but you're drawing the distinction  
25    that I'm -- I guess I'm having hard time to

1 understand.

2 Because according to the folks that did  
3 this -- Misty Hampton, SullivanStrickler -- they have  
4 the same authorization they had in other  
5 circumstances. They had the authorization of the  
6 elections director. They had the authorization of  
7 multiple members or at least one member of the Coffee  
8 County Election Board, and they had Cathy Latham  
9 holding herself out as an election official telling  
10 them they were authorized.

11 A. But she wasn't an election official.

12 MR. TYSON: Object to form.

13 Q. (By Mr. Cross) Sure. But -- but --

14 A. My point is it wasn't a public kind of  
15 thing on that front, so I think there's a --

16 I can't get in their mind-set. You're  
17 right.

18 Q. Uh-huh.

19 A. I can't know why they didn't do it that  
20 way; but, again, everything we've seen shows that.  
21 And, again, new information you just gave me as to  
22 that, it looks like they were trying to see what was  
23 the configuration with those dates, if something  
24 different would happen. That's why -- Maybe that's  
25 why they moved those dates on those machines, if

1 anything or do anything. I don't know if they had  
2 skill sets or not.

3 But you're -- You're right. We can't  
4 know that with suppositions based on what we've seen  
5 and the evidence that we can get that I don't have  
6 access to now, because the GBI is now in charge of  
7 the investigation.

8 So I can't know for certain. You are  
9 correct.

10 Q. So one -- one key difference here with  
11 respect to the access in Coffee County versus others  
12 is that they kept it quiet, despite having  
13 authorization from local officials. And I'm not  
14 suggesting that's lawful authorization.

15 A. Yeah.

16 Q. They were authorized by local officials.

17 Another key difference is timing. Right.  
18 This is January 7th through the end of the month.  
19 This is after Congress has already certified the  
20 election and Biden is declared the winner.

21 So my question to you is: Has your office  
22 considered whether that -- those set of  
23 circumstances, coupled with the amount of time they  
24 spent there, the changes that they made to the EMS  
25 server that we know of so far, whether any of that

1 can have confidence in the outcomes, and the  
2 election is run well. That's the overall  
3 rationale behind doing that.

4 I got a thumbs up from the court reporter,  
5 People. I was good. I did good.

6 MR. KNAPP: Now keep up your record.

7 THE WITNESS: That's going to be hard.  
8 Dave's going to ask me questions and get me  
9 irritated, and I'll get ramped up again.

10 Q. (By Mr. Cross) Do you know whether anyone  
11 has looked at any of the voting equipment taken from  
12 Coffee County to determine whether any kind of  
13 malware was tested on the system?

14 A. Not yet. I think we're discussing about  
15 trying to -- I'm working on getting a long-term  
16 contract, Pro V & V, through our procurement process  
17 to allow for us to go, through, do investigations  
18 like that. Potentially, we had discussion about  
19 potentially Fortalice coming in or some other  
20 third-party group to look just to assure that; and  
21 then if there is anything, loading a golden record;  
22 and even if there's not any discussion about loading  
23 a new golden record on.

24 And subsequently, as I mentioned before,  
25 we're looking at moving to 5.17 on Democracy Suite

1 point, well, maybe we should look at something like  
2 that, again, when we run elections, we have to look  
3 at everything we're doing, this just being one sliver  
4 of the cybersecurity side. You have to look at all  
5 of the processes and thing -- and everything going  
6 on.

7 So it would have been more chaotic and  
8 more risky to then change it out at that -- by the  
9 time it had reached that point; but there was an  
10 internal debate about it, because, again, most people  
11 are under the impression nothing else -- we -- we got  
12 everything else out of there. This is a new EMS, so  
13 there shouldn't be any issue with that, so that was  
14 kind of the -- the thought process behind it at the  
15 time.

16 We were trying to act reasonably as we  
17 could, given the situation we were in.

18 Q. Well, what all did the Secretary's Office  
19 replace in Coffee County last month?

20 A. I believe, if memory serves, and if I --  
21 This may not be completely --

22 Q. Uh-huh.

23 A. -- all of it; but I remember it was the  
24 BMDs, the printers, the cords. I believe we might  
25 have changed out the battery supplies, but I don't

1 recall for certain on that one. The -- The  
2 scanners. The ICPs. The memory cards, and I believe  
3 the jump drives for everything.

4 In fact, we were originally going to  
5 change all those out. There was never a question  
6 internally that we were going to do that. That was  
7 going to be done, but then I think all of that was  
8 changed out.

9 And then the Poll Pads. Pardon me. I  
10 forgot. Them as well.

11 Q. I mean --

12 A. And the cords and all their --

13 Q. Right.

14 A. All the parent -- All the parent-child  
15 things within the system were changed out.

16 Q. There are over a hundred BMDs in Coffee  
17 County, right?

18 A. Correct. I -- I think it's just barely  
19 over a hundred, but I believe that's correct.

20 Q. Somewhere between a hundred and a hundred  
21 twenty, I think, is what we --

22 A. Something --

23 Q. -- refer to.

24 A. Yeah. I think it was a hundred and nine,  
25 if memory serves, but something like that.

1           Q.       So I guess where I'm kind of struggling is  
2 why it would be more chaotic or difficult to just add  
3 two more pieces of equipment when you're already  
4 replacing over a hundred BMDs and dozens of thumb  
5 drives and flash drives and Poll Pads and printers?

6                    You're literally adding two additional  
7 pieces of equipment that are core to that system that  
8 have been used with equipment that you know had been  
9 improperly accessed.

10           A.       You're conflate -- You're conflating two  
11 different decisions.

12           Q.       Okay.

13           A.       We replaced everything; and from our point  
14 of view, we already replaced those two pieces of  
15 equipment. Okay. So we replaced everything else.

16                    Now it came up later on. Said, well,  
17 since they interacted with this, maybe that could be  
18 another secret -- super secret way that malware could  
19 go from one thing to the other.

20                    And we said, well, again, highly unlikely;  
21 but by the time we kind of got to a point that maybe  
22 we should do that, we had --

23                    I remember I was in a Home Depot talking  
24 to Ryan over the phone about this; and once we  
25 decided, well, maybe we should look at that, at that



1           A.     He's passed away.

2           Q.     Okay. I'm sorry.

3           A.     He -- He left first, and then he passed  
4 away suddenly.

5           Q.     Okay.

6           A.     He was very young. He was only 47. He  
7 had a heart attack.

8           Q.     Jesus. That's terrible. Okay. Oh, I'll  
9 need to be healthier.

10                  Okay. So and in this e-mail, Mr. Germany  
11 writes, "... can you download the file below and pen  
12 an investigation into below."

13                  Do you see that?

14           A.     Yes.

15           Q.     And then Mr. Callaway responds, "I got it,  
16 Ryan. I'm clear."

17                  Do you see that?

18           A.     Yes.

19           Q.     And then we come up to -- The most recent  
20 e-mail is one that you're sending where you're  
21 conveying information from Nicole at Dominion.

22                  Do you see that?

23           A.     Yes.

24           Q.     Who was Nicole?

25           A.     Nicole Nollette who is their vice

1 president of operations.

2 Q. How do you spell her last name?

3 A. I believe N-O-L-L-E-T-T-E.

4 Q. And so when you're conveying this, is this  
5 the text like from an e-mail or a text message or  
6 something?

7 A. Yes.

8 Q. Okay. Text message or e-mail?

9 A. I don't recall.

10 Q. Okay. So she says, Gabe, you are right.  
11 April 11th I was up there. When I was at CES, I had  
12 to go to Best Buy. I just remembered this. I looked  
13 up my account, and the purchase was April 11.

14 A. Yes.

15 Q. And then you explain below she was working  
16 to gain access to the server that had the password  
17 change, right?

18 A. Yes.

19 Q. And that's the Coffee County server we've  
20 been talking about?

21 A. Correct.

22 Q. What led the Secretary's Office to decide  
23 to bring Dominion in, in the April timeframe of this  
24 year to try to get access to that server?

25 A. Well, we actually made the decision in

1 March; but they already had a previously scheduled  
2 trip, so it didn't seem logical to make them do an  
3 additional trip down; and it was basically it's their  
4 server. They should be able to know how to get into  
5 it through a -- if the password's been changed.

6 And they thought they might be able to.  
7 They had a couple ways they were thinking about doing  
8 it, and their engineers were working on it, so  
9 that's -- It seemed a logical first step of doing  
10 what we're trying to do, which was to figure out if  
11 there had been any -- anything untoward on the  
12 machine, was to go to them first.

13 Q. Sorry.

14 But was it the -- The recording that you  
15 received from Mr. Hall or the recording of Mr. Hall,  
16 it -- it -- was that the impetus to say, okay, let's  
17 go look at this server that we've had for a while?

18 A. We had had some discussions about it, so  
19 let's listen to the whole thing. As I said earlier,  
20 I wasn't sure of the timeframe. I think it was post  
21 getting the full thing or free.

22 We -- We already decided we've got to  
23 figure out how we're going to do this, and I couldn't  
24 tell you when we originally called either Tom Feehan  
25 or Nicole Nollette to say, hey, we need to get into

1 the server. How do we do that.

2 So it was around -- They're all  
3 contemporary to one another in that timeframe.

4 Q. Did anybody come with Miss Nollette on  
5 April 11th from Dominion?

6 A. Not that I recall, but I -- I may not be  
7 aware.

8 Q. Okay.

9 A. I know that she was talking to people  
10 remotely in the Denver office about this from CES,  
11 'cause we had discussions about that.

12 Q. So is it your understanding that she's the  
13 one who came up, and it was -- She's the one who  
14 tried to get access to the server?

15 A. And to a point where she'd gone to Best  
16 Buy and said, hey, get this and see if this can help  
17 you do that kind of thing. That -- That was where  
18 that came down from because we had an initial  
19 discussion.

20 She -- In her brain, she thought it was  
21 later that she'd come down in April; but I said no.  
22 I'm pretty sure it was around this time.

23 And she went back and checked, and that's  
24 how -- That was the impetus behind this particular  
25 discussion on the e-mail.

1 Q. Do you know what it is she purchased from  
2 Best Buy to try to help with that?

3 A. I don't.

4 Q. If you wanted to know that, who would you  
5 ask?

6 A. Nicole.

7 Q. But whatever she bought, fair to say it  
8 didn't work?

9 A. Correct.

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1                   So I don't know if that was stated or not.  
2                   It was not stated to me.

3                   Q.       Mr. Barnes testified that --

4                   A.       Michael or James?   Sorry.

5                   Q.       Yes.   Thank you.   That's a good  
6                   correction.

7                   James Barnes testified that when the  
8                   Secretary's Office swapped out the -- the EMS server  
9                   and the ICC in June of last year, he said it was Mr.  
10                  Patel and someone named Chris.

11                  Was that Chris Bellew?

12                  A.       Chris Bellew.   Correct.   And that's  
13                  spelled B-E-L-E-W (sic).

14                  Q.       Is it two L's?

15                  A.       I think it's just one.

16                  Q.       Oh, okay.

17                  A.       I could be wrong, but I'm pretty sure it's  
18                  just one.

19                  Q.       Okay.   And just so I understand, your  
20                  knowledge is that the only documentation that exists  
21                  within the Secretary's Office about replacing the EMS  
22                  server and the ICC is that L&A testing report that we  
23                  received?

24                  A.       As I sit here right here, yes.   We're  
25                  obviously going to check the next break.

1 Office in January of 2021, a video?

2 A. Investigation of that time period? Now --

3 Q. Yes.

4 A. -- at that time period?

5 Q. Correct.

6 A. Okay. I'm not aware of one; but, again,  
7 this is in GBI's hands right now, so I think that  
8 would be something that would probably fall into that  
9 purview.

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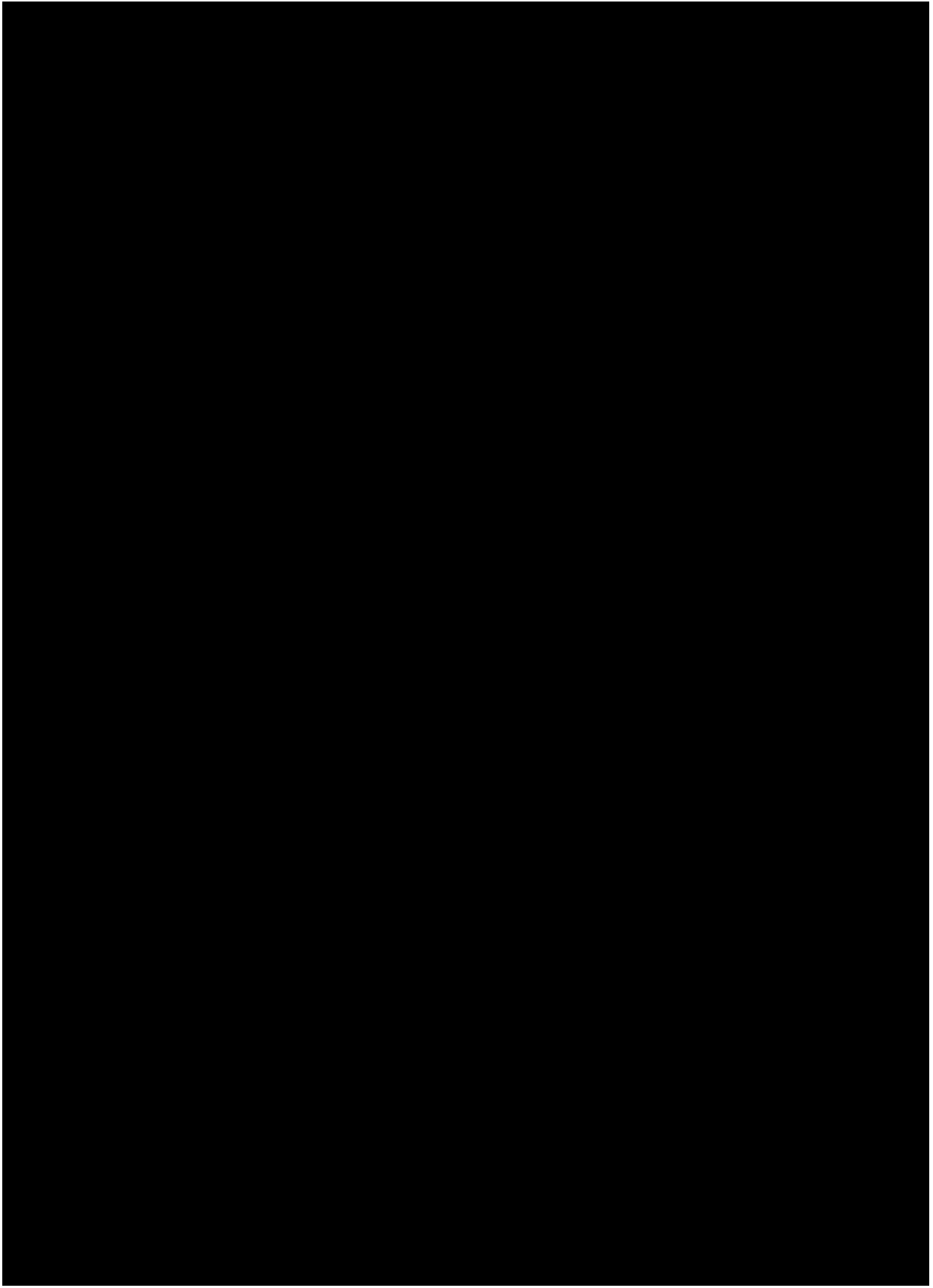
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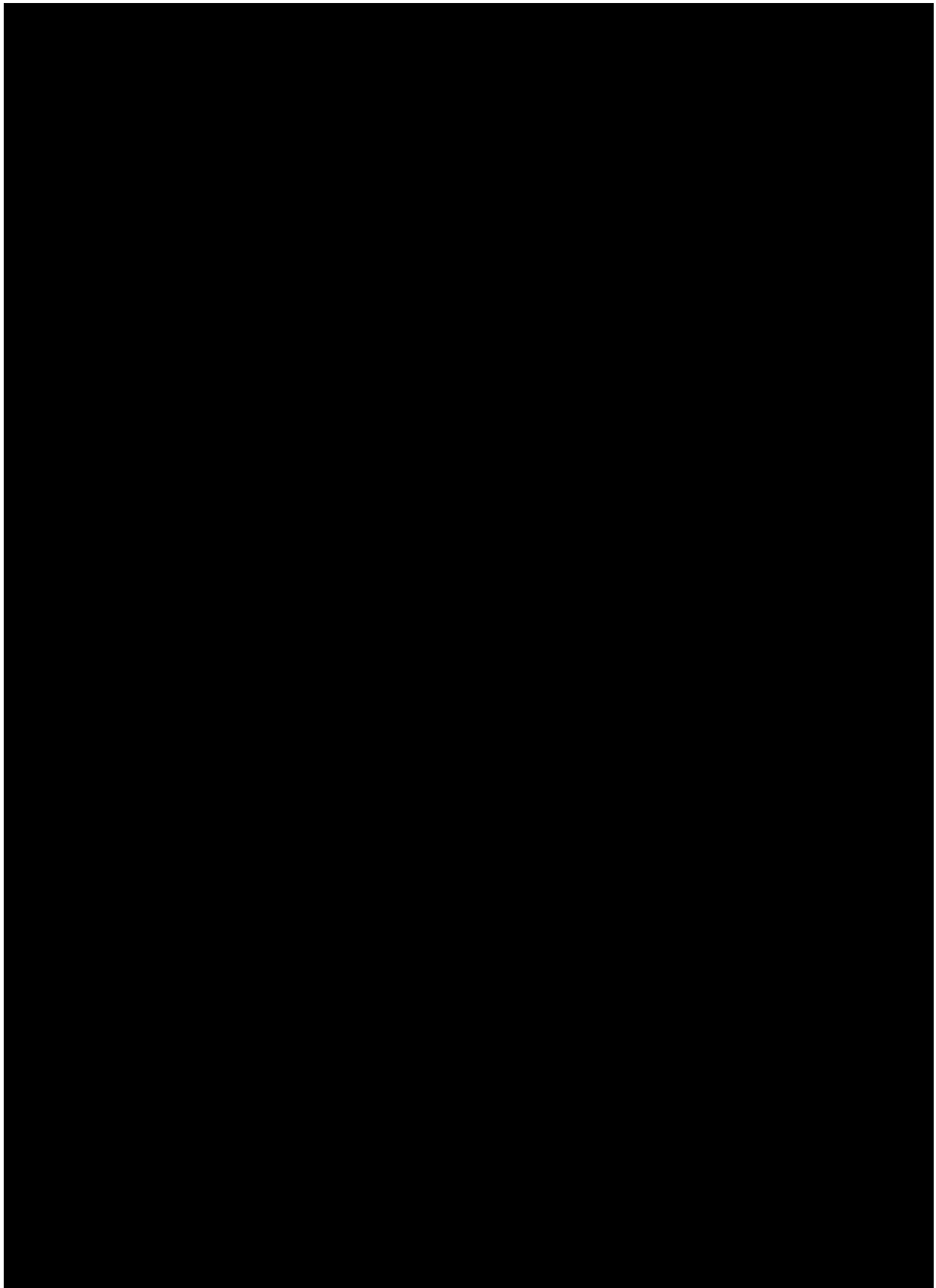
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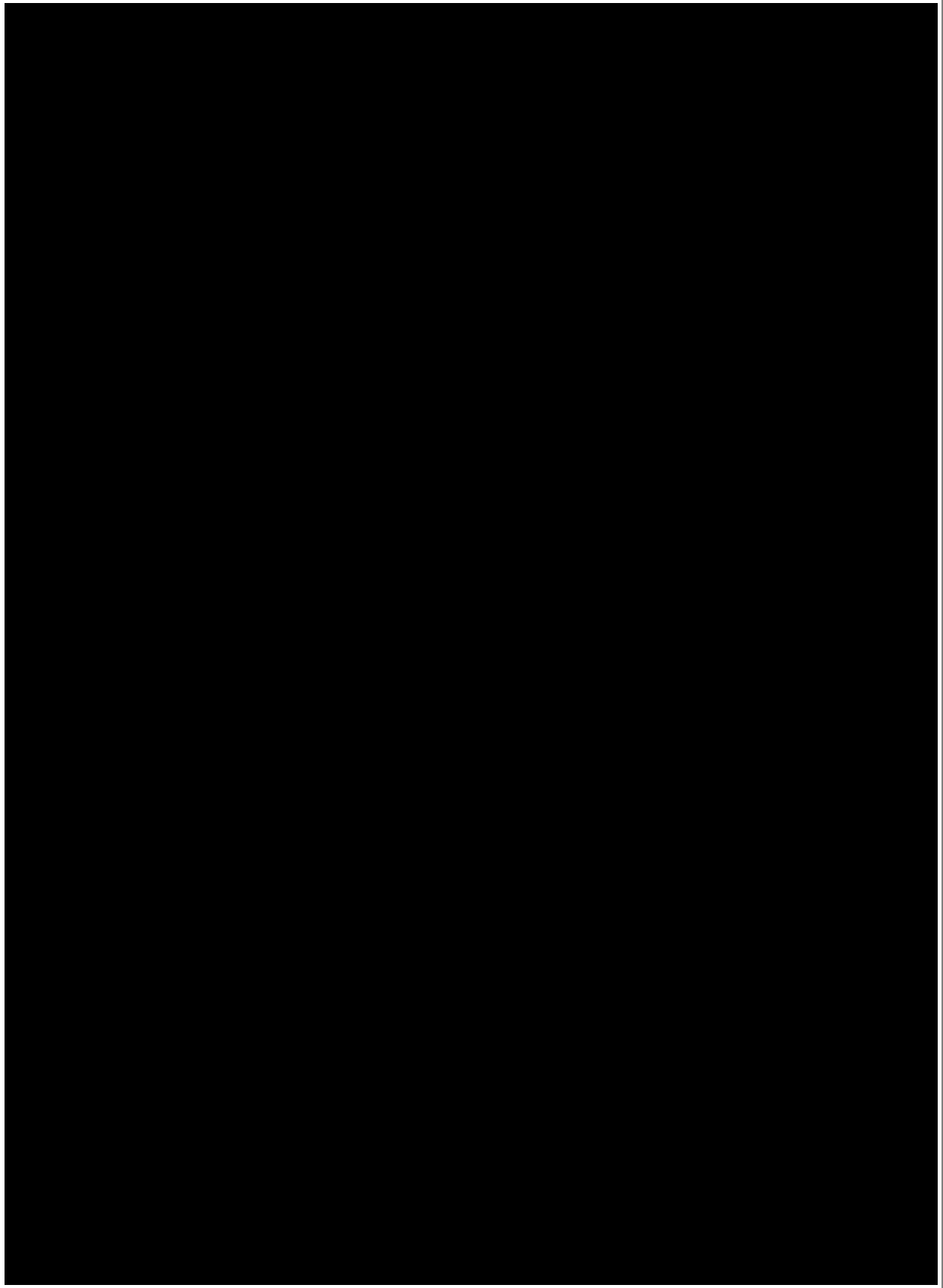




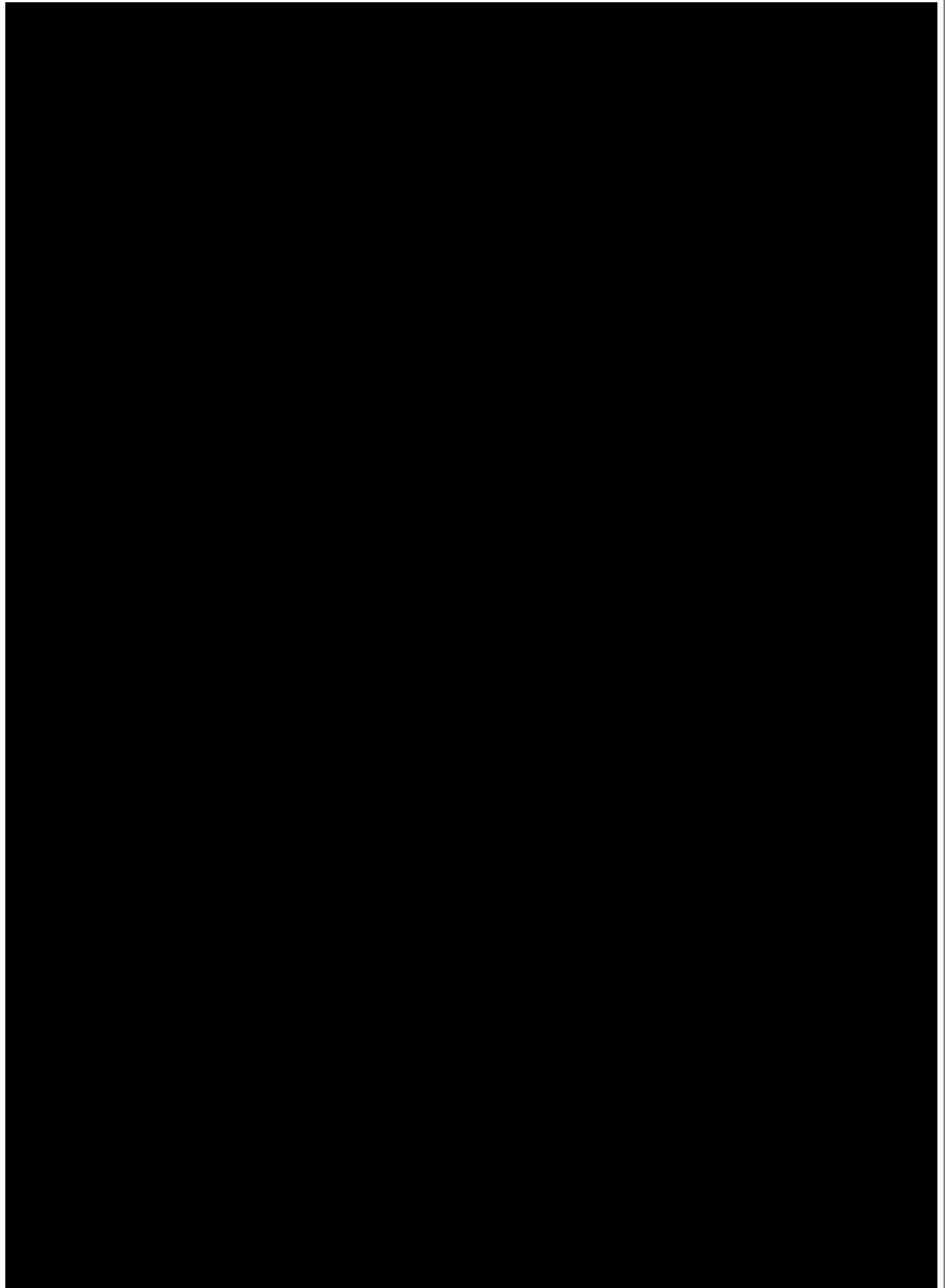
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1           Persinger. Say this is what this does. This is  
2           what that does kind of thing.

3           Q.       (By Mr. Cross) Okay. What is Mr.  
4           Greenwalt's first name?

5           A.       David.

6           Q.       David. Can you tell me when KNOWiNK was  
7           first alerted to the unauthorized access in Coffee  
8           County?

9           A.       I can probably go back and look, but it  
10          would have been around all the same time we finally  
11          figured out, so probably July-August range in that --

12          Q.       Okay.

13          A.       -- I believe when they first would have  
14          known.

15          Q.       Of this year?

16          A.       Yes.

17          Q.       Do you know when Dominion first learned  
18          about the breach in Coffee County?

19          A.       Again, I'm making the assumption it'd be  
20          around the similar time that we discovered it, which  
21          would have been that July; and then it was coming off  
22          of July 4th holiday; and then we had to confirm. It  
23          was somewhere in that range of probably mid to late  
24          July.

25          Q.       Okay.

1           A.       Although I think it was relatively  
2       quickly. We said, guys, we -- There is a situation  
3       that we've discovered from our own internals. Look  
4       at this.

5           Q.       Well, right, I mean, we -- we know --

6                    I guess what I was trying to figure out  
7       when -- when Nicole Nollette came in on April 11th,  
8       was she there, in part because of the -- the  
9       unauthorized access concerns that had come to light  
10      with the Scott Hall call?

11          A.       She wasn't there because of that itself.  
12      She added on something else to her trip. She was  
13      doing work with Fran Leathers, who had been hired  
14      as -- as a Dominion rep, and they were going -- doing  
15      some sales calls and stuff.

16                  So she was there then. While you're here,  
17      can you see if you can get into this thing, because  
18      of the claim that we saw in the -- come out of the  
19      deposition that I did.

20          Q.       Do you know whether anyone in the  
21      Secretary's Office or at their direction has talked  
22      to Dominion about whether they were aware of the  
23      breach earlier than that?

24          A.       I don't -- When we had discussions, I  
25      mean, about this, as I said, starting from when it

1 was first brought to us in February, at the end of  
2 February, our position was given the people involved  
3 and the claims involved, this seemed like it was  
4 another false flag --

5 Q. Uh-huh.

6 A. -- fake pile of stuff.

7 So we said, hey, this claim is there. Run  
8 it up the flagpole, so, you know, it out there kind  
9 of thing; but it was sort of a -- I will tell you  
10 that we didn't think there was probably anything  
11 there, given that the people involved and --

12 So we said be aware of it; but, again, we  
13 need to go through the investigation to show this, so  
14 that's why we need to get into the server. So that  
15 was kind of -- They were in that same timeframe.

16 It was like okay. Let's look into this,  
17 'cause this is a real thing. We've got -- have to  
18 look at it now, because it's been claimed publicly in  
19 a way that's, you know, even though we know the  
20 players here have -- have been historically full of  
21 crap. So it was Scott Hall and -- and then, of  
22 course, with Miss Marks, and then knowing --

23 I didn't understand at the time; but,  
24 again, our take on it was it's probably -- We have  
25 to go through this investigation to show that nothing

1 happened and -- Or and if it did, then we need to  
2 really know, so that was kind of our position we were  
3 in at that point.

4 Q. Right. And sorry. And I was asking a  
5 narrower question, which is: Do you know whether  
6 anyone has -- anyone has spoken to anyone at Dominion  
7 to determine whether they have any knowledge about  
8 the potential breach before the Scott Hall call was  
9 disclosed to you guys?

10 A. I lost the script on that question. My  
11 point in saying it that way was we all kind of had  
12 the same indication.

13 And I believe our relationship with  
14 Dominion would be like, well, we had heard some --  
15 They would have said something to us had they been  
16 aware, but a specific question was not asked of like  
17 have you heard about this before --

18 Q. Uh-huh.

19 A. -- because that's not how you communicate  
20 something like that with a partner on something on  
21 that sort of front.

22 Q. No. I -- I -- I get that you -- you  
23 expect that they would have told you. But I just  
24 want to make sure that you're not aware of any  
25 communications anyone for the Secretary's Office with

1 anyone with Dominion asking the question -- did you  
2 have any inkling or awareness of the breach before  
3 the Scott Hall call?

4 A. The specific question phrased that way in  
5 that timeframe, no. But I'm not going to say we were  
6 laughing about it to a degree, but that's sort of the  
7 tone. You're saying like, god, it's another one of  
8 these damn things. At least that's sort of -- That  
9 was sort of the tone of conversation.

10 And if it had been something different, I  
11 believe it -- my --

12 If we asked the question and they had said  
13 no, that would be one thing; but if we discussed it  
14 and they said no, that would have been, if they did  
15 know, then a lie by omission, because I believe --

16 But I don't -- I don't believe that is  
17 the case, and so it didn't occur. Say, hey, did you  
18 know about this beforehand so --

19 Q. Do you know whether Dominion has ever  
20 threatened any litigation against Coffee County or  
21 the Board of Elections involving the breach?

22 A. I do not know.

23 Q. Do you know whether there's been any --  
24 any invest -- we --

25 Take a step back. You were talking about



1 ballots in and of themselves are more easily hackable  
2 in terms of low tech ways of doing it, ballot  
3 stuffing.

4 Part of the reason we got to a lot of  
5 these computerized things, if you looked at the  
6 history of why we went to voting machines is to avoid  
7 those kind of situations.

8 Q. But the scaleability --

9 A. It's --

10 Q. -- is massively different. We agree on  
11 that, right?

12 A. It --

13 Q. The scaleability of an attack on  
14 hand-marked paper ballots --

15 A. No. I don't agree on that, 'cause, again,  
16 if all -- all the suppositions in Dr. Halderman's  
17 things essentially say a lot of if, then; if, then;  
18 if, then to get to that point of huge scaleability.

19 My contention is it is much more  
20 detectable, even with all those things. There's so  
21 many pieces and processes and the RLAs, and I know he  
22 says we only have one mandated RLA every two years.

23 I think that's too few. The Secretary  
24 thinks that's too few. We've tried to argue the last  
25 two times in legislation we need more auditing in the

1 law. We're trying to look at now can we do it by  
2 rule. We're -- We're having a discussion.

3 Q. Well, can't the SEB or the Secretary do as  
4 many audits as they want? It doesn't have to be  
5 mandated by --

6 A. The Secretary can't just tell a county to  
7 go do it. You have to have some legal authorization  
8 to do it.

9 So my point is we can't -- we can't --  
10 the -- The chief elections officer can't just make  
11 things up for them to do. We can't just say from now  
12 on, you're doing this. You have to go through the  
13 rule making.

14 So like I said, we're having discussions  
15 about how do you construct an SEB rule to do this and  
16 how do you structure it best, because my point on the  
17 RLAs is I think it's crazy to only do one every two  
18 years, because if you're doing ballot batching and  
19 all the necessary steps for that.

20 If you do every two years just to do it;  
21 you need to do it every single election, whether it's  
22 a special, a primary -- I don't care -- a runoff.  
23 You have to go through the process so you get the  
24 muscle memory back. There's enough human beings at  
25 the county level to do those things.

1           So this isn't a perfect universe versus  
2 hell. This is like a system that we know functions  
3 versus a system that people can argue this a little  
4 more secure, functions better. This is a little more  
5 secure, functions less. It's a policy discussion.

6           And that's why, no, I don't believe that;  
7 and I believe that the decisions that we've made  
8 through several laws --

9           You've got to remember. We procured this  
10 using the State procurement law after the passage of  
11 HB 316, and we're following the law. We continue to  
12 follow the law.

13           I mean, this Office now rather famously  
14 said we follow the law and we follow the evidence and  
15 we tell the truth about these things, and that's what  
16 we're trying to do is to get to a system that works  
17 that has -- provides the security that's necessary.

18           And there's never a hundred percent  
19 security on any system. I think we can all agree on  
20 that.

21           You're right in your statement that there  
22 might be scalable stuff; but if someone gets to  
23 scanner -- If they can get to an EMS, they can get  
24 to scanners, which is equally scaleable. In fact, I  
25 would argue that trying to go to BMDs is physically

1 that people can fundamentally and honestly disagree  
2 on.

3 Q. You agree today that the vulnerabilities  
4 Dr. Halderman identified in July of last year that  
5 CISA validated in June, those are serious  
6 vulnerabilities that need to be mitigated; is that  
7 fair?

8 A. I'm not going to get into the word  
9 "serious," because, as we said, the MITRE --

10 Q. Well, that's fair. That's fair.

11 A. -- given all of them are operationally  
12 infeasible.

13 Q. That's fair. Let me ask --

14 A. They're all vulnerabilities. Correct.

15 Q. Let me ask a different question.

16 You agree that those -- that they are  
17 vulnerabilities, however one wants to characterize  
18 the magnitude, that should be mitigated as CISA  
19 advised in June? Do you we agree on that?

20 MR. TYSON: I'll object to scope.

21 THE WITNESS: I would agree to that; and  
22 when we look through those lists, we do nearly  
23 all of those things already for the physical  
24 security and those kind of things. Obviously,  
25 we have a bad actor on one.

1           There is one in there that I think is  
2           functionally infeasible for CISA's side, where  
3           every poll worker needs to have a separate  
4           log-in. There would be chaos. There was no way  
5           that --

6           I mean -- I want you to imagine Fulton  
7           County trying to have thousands of different  
8           passwords attached to thousands of different  
9           things. It's difficult when they have a few  
10          hundred just to get into the e-mail system right  
11          now for early voting and doing that properly.  
12          And that we got -- they -- kicking and screaming  
13          on us not to do that. They wanted to have one.

14          Well, no. You're going to have separate  
15          ones for each one, because we're going to keep  
16          track of what people do on this. This is very  
17          difficult in the real world to do some of these  
18          things that make sense in an academic  
19          environment in the cybersecurity standalone  
20          environment. Then the actual functioning would  
21          get in the way of the system actually working.

22          Q.       (By Mr. Cross) You keep talking about the  
23          MITRE report, but you gloss over that there -- there  
24          are two critical assumptions that underlie those  
25          findings. When they say it's operationally

1       infeasible, they made clear what they mean --

2             A.       Yes.

3             Q.       -- because they assume that no one can get  
4       access to the equipment system. But we know from  
5       Coffee County that's -- that's a very poor  
6       assumption, right?

7             A.       Well, I believe -- I think you're  
8       characterizing it one way, but they may mean another,  
9       and I may characterize it another way reading the  
10      same words on a piece of paper.

11             Obviously, having access to machines can  
12      give you a better roadmap mobility to do it. You  
13      still have to have access to nearly all of the  
14      machines in most of the situations that were  
15      described in Dr. Halderman's report. You have to be  
16      able to --

17             Q.       But not all of them.

18             A.       I didn't say all of them. I said in most  
19      of them.

20             So, again, even those would require -- If  
21      we go to the umpteenth one was the top one, which is  
22      now functionally incorrect, because Dominion is not  
23      the -- There's not one person in Dominion doing the  
24      ballot building now. That was one of the main things  
25      he said. You could plant something there.

1 A. No.

2 Q. Okay.

3 A. We had -- I think she was originally told  
4 by Chris Harvey to change it once the video came out.  
5 She didn't do it.

6 And then on December 11th, I believe it  
7 was, they came down and said you changed it. No.  
8 Change the password.

9 On the 14th, the password was changed, so  
10 that's -- that's where it goes in for all these  
11 things. There's no way for CES to be remotely made  
12 aware of that, because it's not connected to the  
13 Internet.

14 Q. Okay. So she was told -- She was  
15 recommended or told to change it.

16 A. Uh-huh.

17 Q. And then at some point after that, it was  
18 changed. Fair to say?

19 A. Yes, sir.

20 Q. Okay. And at the time, the Secretary of  
21 State was not made aware of the change?

22 A. Correct, sir.

23 Q. Okay. And I guess didn't know it was  
24 changed until the next spring.

25 A. May, I believe, is when --

1 Q. When they picked it up.

2 A. -- James Barnes --

3 Well, we became aware that there was an  
4 issue when James Barnes first called, so that was  
5 when we -- Something's gone on here.

6 And we -- Frankly, we couldn't know it  
7 was changed. The assumption is it was, because of  
8 the situation that occurred previously; and so --  
9 But we didn't know for certain it was changed and  
10 what date until Mr. Persinger got into the machine to  
11 look at the log file.

12 Q. I want to make sure we have all the  
13 documents, but you -- and to sort of source of your  
14 knowledge on some of these things.

15 A. Uh-huh.

16 Q. You testified that James Barnes, after the  
17 Cyber Ninja card was found --

18 A. Yes, sir.

19 Q. -- he sends it upstream. He -- There's a  
20 call back from, I guess, Pamela Jones; and the  
21 information that came back was that he had spoken  
22 with the board and the employees down there. Was  
23 that --

24 A. Are you talk -- Like looking back, you  
25 know, it's the basis of it. We talked to people, and



C E R T I F I C A T E

STATE OF GEORGIA:

COUNTY OF FULTON:

I hereby certify the foregoing transcript was taken down, as stated in the caption, and the questions and answers thereto were reduced to typewriting under my direction; that the foregoing pages 1 through 434 represent a true, complete, and correct transcript of the evidence given upon said hearing, and I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

This, the 17th day of October, 2022.

S. JULIE FRIEDMAN, CCR-B-1476